

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3  
4 Damon Powell,  
5 Plaintiff  
6 v.  
7 State of Nevada, et al.,  
8 Defendants  
9

Case No.: 2:18-cv-02378-JAD-CWH

**Order Adopting Report and  
Recommendation, Dismissing Action,  
and Closing Case**

[ECF No. 4]

10 On December 19, 2018, the court denied plaintiff Damon Powell’s application to proceed  
11 *in forma pauperis* and gave him 30 days to pay the filing fee or have his case dismissed.<sup>1</sup> Powell  
12 did not pay the fee, and the magistrate judge now recommends that I dismiss his case.<sup>2</sup> The  
13 deadline for objections to that report and recommendation passed without any filing from  
14 Powell, and “no review is required of a magistrate judge’s report and recommendation unless  
15 objections are filed.”<sup>3</sup>

16 District courts have the inherent power to control their dockets and “[i]n the exercise of  
17 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.<sup>4</sup> A  
18 court may dismiss an action based on a party’s failure to prosecute an action, failure to obey a  
19 court order, or failure to comply with local rules.<sup>5</sup> In determining whether to dismiss an action

20  
21 <sup>1</sup> ECF No. 3.

22 <sup>2</sup> See ECF No. 4.

23 <sup>3</sup> *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003); see also *Thomas v. Arn*, 474  
24 U.S. 140, 150 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

25 <sup>4</sup> *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

26 <sup>5</sup> See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with  
27 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to  
28 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–  
41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to  
keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.

1 on one of these grounds, the court must consider: (1) the public's interest in expeditious  
2 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the  
3 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the  
4 availability of less drastic alternatives.<sup>6</sup>

5 The first two factors, the public's interest in expeditiously resolving this litigation and the  
6 court's interest in managing its docket, weigh in favor of dismissal of the plaintiff's claims. The  
7 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a  
8 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading  
9 ordered by the court or prosecuting an action.<sup>7</sup> A court's warning to a party that its failure to  
10 obey the court's order will result in dismissal satisfies the fifth factor's "consideration of  
11 alternatives" requirement,<sup>8</sup> and that warning was given here.<sup>9</sup> The fourth factor—the public  
12 policy favoring disposition of cases on their merits—is greatly outweighed by the factors  
13 favoring dismissal.

14 Accordingly, with good cause appearing and no reason to delay, IT IS HEREBY  
15 ORDERED that the Report and Recommendation [ECF No. 4] is **ADOPTED**, and **this case is**  
16 **DISMISSED** for failure to pay the filing fee as directed by the court. **The Clerk of Court is**  
17 **directed to ENTER JUDGMENT accordingly and CLOSE THIS CASE.**

18   
19 U.S. District Judge Jennifer A. Dorsey  
20 Dated: February 12, 2019

21 \_\_\_\_\_  
22 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,  
23 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

24 <sup>6</sup> *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;  
25 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

26 <sup>7</sup> See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

27 <sup>8</sup> *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

28 <sup>9</sup> ECF Nos. 3, 4.